

REMARKS

Claims 1-29 and 34-36 are presently pending in the application. Claim 1-6, 14, 19, 21, 34 and 36 are amended to recite, among other things, a membrane with a “substantially uniform thickness except for an edge which is thicker” and/or to recite an “edge 2 to 4 times thicker” than the rest of the membrane. Care has been taken to avoid the introduction of new matter.

All of the related applications, added by this amendment to the specification, are patented.

All of the foreign counterpart applications, owned by the Assignee, are free of prior-art rejections. Without wishing to suggest guidance, it is noted that the counterpart applications in AU, CN and HK are allowed/registered and that those in CA, EP, KR and MX are understood to be free of prior-art rejections.

The outstanding Office Action rejected claims 1, 2, 4, 5, 14-17, 21, 22, 34-36 and 51 under 35 U.S.C. § 102(b) as allegedly being anticipated by Arm et al. (WO 93/20859), rejected claims 1, 4, 7-18, 21 and 22 under 35 U.S.C. § 103(a) as allegedly being unpatentable in view of Hossainy et al. (Patent 6,451,373, published 9/17/2002), rejected claims 1, 3-5, 21-28 and 51 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ledergerber (Patent 4,955,907, published 9/11/1990) in view of Schneider (Patent 3,636,956, published 1/25/1972), and further rejected claim 6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ledergerber in view of Schneider and further in view of Vijayan et al. (Patent 5,047,054, published 09/10/1991). Applicants respectfully traverse these rejections.

Applicants do not consider the current rejections to have sufficient merit based upon reasons already made of record. However, having carefully noted the comments made by the Examiner in the outstanding Office Action, and in an effort to expedite the prosecution of the present application, Applicants have introduced new claim changes. These changes have been made, not so much as to overcome the prior-art rejections of record, but rather to further or more distinctly define and emphasize aspects of the invention.

Independent claim 1 has been amended as set forth above. Applicants respectfully traverse the rejections as they relate to the claims even before the present amendment and especially after this amendment. Claim 1, as now presented, recites a combination of method limitations directed to using a resorbable polymer base material in combination with an implant for the purpose of

attenuating adhesions between the implant and surrounding tissue, the method including, among other things, “providing a non-porous, resorbable polymer base material ... [having] a substantially uniform thickness except for an edge which is thicker ... and attenuating an occurrence of adhesions between the implant and surrounding tissue at the region within the human patient by way of the presence of the resorbable thin membrane positioned at the region within the patient.”

Support for this language can be found, for example, in the tenth paragraph of the Detailed Description of the as-filed application (cf. Pub. No. US 2004/0115241, para. [0025]), which states “[t]his thickness should be uniform in the axial and transaxial directions, except at the outermost edges of the membrane 10, where the thickness can be 2 to 4 times thicker than the rest of the membrane.” The thicker edge can, by way of example and not limitation, provide the membrane with one or more of added attachment strength and a reduction of the risk of damage in attachment applications.

As was the case even before the current submission, it is respectfully submitted that the presently presented claims are not taught by the prior art of record. More particularly, Applicants respectfully submit that the cited references, taken separately or together, still neither disclose nor suggest each and every limitation that is recited in the claims. The significance of the currently-claimed invention is highlighted in the context of, among other things, attenuating formation of post-surgical scar tissue with a resorbable anti-adhesion membrane having a non-porous base material, a substantially uniform thickness except for an edge which is thicker, a resorbable polymer consisting essentially of a lactide polymer or a copolymer of two or more cyclic esters (cf. claim 1). The significance is also highlighted in, as just one more of many examples, the context of a membrane about 10 to 100 microns thick with an edge 2 to 4 times thicker (cf. claim 2).

Applicants submit that the presently-presented sole independent claim 1 distinguishes over the prior art of record in a non-obvious manner, and such level of distinction, indeed, is sufficiently pronounced, definite and readily apparent so as to rise, undeniably, to the level of palpable patentability. Additionally, it is respectfully submitted that the corresponding dependent claims are allowable over the prior art of record at least because of their dependencies on their corresponding independent claims.

Accordingly, the outstanding rejections under 35 U.S.C. § 102 and § 103 are improper, and should be carefully reconsidered and withdrawn. Applicants respectfully request that the Examiner reconsider and withdraw each of these rejections.

Should the Examiner believe that a telephone conference with Applicants' representative would be helpful to advance the prosecution of the application, or for any other reason, he is kindly invited to contact the undersigned with any such concerns or questions.

The Commissioner is hereby authorized to charge any needed fees to Deposit Account 50-1600.

Respectfully submitted,



Kenton R. Mullins
Attorney for Applicants
Registration 36,331

Dated: October 13, 2009

Stout, Uxa, Buyan & Mullins, LLP
4 Venture, Suite 300
Irvine, CA 92618
Telephone: (949) 450-1750
Facsimile: (949) 450-1764